

## REMARKS

Claims 1-22, 40-45, and 76-86 are pending in the application. Claims 1, 5, 6, 11, and 17 have been amended herein. Favorable reconsideration of the application, as amended, is respectfully requested.

Applicants' undersigned representative appreciates the Examiner's courtesy of the telephonic interview on August 18, 2003. During the interview, the undersigned representative clarified the distinction between the present invention and the cited references based on the proposed amendment to the preamble of claim 1 to read "enabling a carrier to generate a bid for a shipper load." The Examiner indicated her impression that this amendment would work to differentiate the invention from the primary reference, "CAPS logistics."

### I. REJECTIONS OF CLAIMS 1-8, 10, AND 11 UNDER 35 U.S.C. § 102(a)

Claims 1-8, 10, and 11 stand rejected under 35 U.S.C. § 102(a) as being anticipated by CAPS Logistics Inc., PR Newswire ("CAPS"). The rejections are respectfully traversed for at least the following reasons.

The present inventions defined in independent claims 1, 5, 6, and 11 relate to methods for generating a bid for a shipper load, methods for bidding on a plurality of shipper loads, and computer program products for performing these methods.

Independent claims 1, 5, 6, and 11 have been amended to further clarify one of the pertinent aspects of the invention. Specifically, independent claims 1, 5, 6, and 11 recite "enabling a carrier to generate a bid for a shipper load." Claim 1 further recites "selecting a plurality of units of capacity, assigning a group identifier to the plurality of units of capacity, and generating a bid for the shipper load using the group identifier." In essence, one of the aspects of the invention defined in claim 1 relates to aggregating "units of capacity" of carriers in order to "generat[e] a bid for a shipper load" by "assigning a group identifier to the ... units of capacity" of carrier. Independent claim 5 contains recitations similar to those of claim 1.

First, the Examiner's argument in the Final Office Action that shippers generate a bid solicitation package is not relevant to the present invention since the claimed invention of independent claim 1, 5, 6, and 11 relates to a method for enabling a carrier to generate a bid, which is opposite to shippers' generation of a bid. As the Examiner indicated during the above-identified interview, the CAPS reference describes a conventional bid process for enabling a shipper to generate a bid. By contrast, the present invention enables a carrier to generate a bid for a shipper load as defined in claims 1, 5, 6, and 11. Therefore, CAPS cannot be said to anticipate the present invention as defined in independent claims 1, 5, 6, and 11.

In the Final Office Action (Section 3), the Examiner asserts that each of the air, water, and ground requirements to which CAPS refers is a unit of capacity. However, these terms refer to the shipper's transportation requirements, not units of capacity. Units of capacity may ultimately be assigned to satisfy those requirements, but CAPS is silent on how this is achieved. Because CAPS does not discuss units of carrier capacity, it cannot be said to teach "assigning a group identifier to the plurality of units of capacity" as recited in claims 1, and 5.

Independent claim 6 further requires "generating a plurality of bids corresponding to the plurality of shipper loads, each of the plurality of bids corresponding to a same unit of capacity." Independent claim 11 contains recitations similar to those of claim 6. Again, CAPS does not show that each of the plurality of bids corresponds to a same unit of capacity. If the Examiner still believes that CAPS does, Applicants respectfully request that the Examiner locate a specific portion of the reference which shows the relevant feature of the invention.

For at least the reasons set forth above, independent claims 1, 5, 6, and 11, and their dependent claims are believed to be allowable over CAPS. Withdrawal of the rejections is respectfully requested.

## **II. REJECTIONS OF CLAIMS 76-86 UNDER 35 U.S.C. § 102(a)**

Claims 76-86 stand rejected under 35 U.S.C. § 102(a) as being anticipated by GoLogistics.com, "New Internet Start-up will Match Empty Space of LTL Carriers with Shipper seeking Cost Savings," PR Newswire ("GoLogistics"). The rejections are respectfully traversed for at least the following reasons.

The invention defined in claims 76-86 relates to methods and computer program products for responding to bids for a shipper load. Specifically, independent claims 76 require "where the bid price is less than or equal to the automatic acceptance price, automatically accepting the bid on behalf of the shipper." Independent claims 82 require "where the bid price is less than or equal to the automatic notify price, automatically notifying the shipper representative regarding the bid." Independent claims 81 and 86 contain recitations similar to those of claims 76 and 82, respectively.

GoLogistics relates to a system for selecting the best carrier who meets the shipper's price criteria (GoLogistics, lines 50-60). The Examiner asserts that the above-identified features recited in claims 76, 81, 82, and 86 are disclosed at page 1, lines 50-60; and page 2, lines 18-25, and lines 65-68 of GoLogistics. However, these portions in fact do not suggest the claimed features in any way.

Regarding the automatic acceptance recited in claims 76 and 81, the GoLogistics system "pulls three best prices" for the shipper's choice (page 3, lines 4-6). In GoLogistics, it is the

shipper that chooses one of the three prices, not the system itself. In other words, the GoLogistics system is not capable of accepting any bid. Rather, the system merely forwards multiple candidate prices to the shipper without accepting any of them. Nothing in GoLogistics suggests such an automatic acceptance as recited in claims 76 and 81. Therefore, GoLogistics fails to teach or suggest automatic acceptance as claimed.

In addition, the GoLogistics multiple candidate prices are not the claimed "automatic notify price" since the GoLogistics system forwards "three best prices" rather than a fixed price specified by a shipper representative as claimed. Thus, GoLogistics fails to teach or suggest the "automatic notification" function recited in claims 82 and 86, as discussed below in detail.

Regarding claims 82 and 86, GoLogistics fails to teach or suggest the claimed aspects of the invention, i.e., "posting the shipper load ... having an automatic notify price," and "where the bid price is less than or equal to the automatic notify price, automatically notifying the shipper representative regarding the bid." Nothing in GoLogistics suggests use of the claimed "automatic notify price" and the claimed automatic notification using the "automatic notify price." GoLogistics is simply not concerned with automatic notification because the shipper itself makes the carrier choice in GoLogistics (page 3, lines 4-7). Thus, GoLogistics does not need automatic notification which is triggered by a certain condition as claimed. Therefore, GoLogistics cannot be said to anticipate the invention of claims 82 and 86, and their dependent claims.

For at least the reasons set forth above, GoLogistics does not anticipate claims 76-86. Withdrawal of the rejections is respectfully requested.

### **III. REJECTIONS OF CLAIMS 9 AND 12-22 UNDER 35 U.S.C. § 103(a)**

Claims 9 and 12-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over CAPS and U.S. Patent No. 5,835,896 ("Fisher"). The rejections are respectfully traversed for at least the following reasons.

Claim 9 is believed to be allowable for at least the reasons set forth above in connection with claim 6. In addition, claim 9 requires "in response to acceptance by a shipper representative of one of the plurality of bids, making all others of the plurality of bids unavailable." As the Examiner concedes in the Office Action, CAPS does not specifically disclose the features recited in claim 9.

The invention defined in claims 12-22 relates to methods and computer program products for bidding on a plurality of shipper loads. Independent claim 12 requires "where one of the plurality of bids is accepted, making all others of the plurality of bids unavailable." Independent claim 17 requires "when the currently unavailable unit of capacity becomes available, updating

the bid to a current bid.” Independent claims 16 and 22 contain recitations similar to those of claims 12 and 17, respectively. As the Examiner concedes in the Office Action, CAPS does not specifically disclose the features recited in claims 12 and 17.

The Examiner asserts in the Final Office Action that the Fisher patent teaches making all others of the plurality of bids unavailable where one of the plurality of bids is accepted by citing column 6, lines 39-67. However, it is respectfully submitted that this assertion is not technically correct. The cited portion of Fisher merely describes electronic notification (see, for example, column 6, lines 54-57). Nothing in this portion teaches or suggests “making all others of the plurality of bids unavailable” as recited in claims 9, 12, and 16.

Further, nothing in the cited portion teaches or suggests updating the bid to a current bid when the currently unavailable unit of capacity becomes available as recited in claims 17, and 22.

For at least the foregoing reasons, Fisher does not make up the deficiencies of CAPS. Accordingly, independent claims 12, 16, 17, and 22, and their dependent claims, together with claim 9, are believed to be allowable over the cited art.

#### **IV. REJECTIONS OF CLAIMS 40-45 UNDER 35 U.S.C. § 103(a)**

Claims 40-45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Collaborative Logistics Exchange, “Descartes Announces Collaborative Logistics Exchange ...,” Business Wire (“CLE”). The rejections are respectfully traversed for at least the following reasons.

The invention defined in claims 40-45 relates to methods and a computer program product for presenting information regarding a bid entered against a particular shipper load. Independent claim 40 requires “communicating a number of shipper loads against which the particular carrier capacity is currently bid.” Independent claim 45 contains recitations similar to those of claim 40.

As the Examiner concedes in the Final Office Action, CLE does not specifically disclose the features recited in claims 40, and 45, i.e., “communicating a number of shipper loads against which the particular carrier capacity is currently bid.” In rejecting claims 40, and 45 in the Final Office Action, the Examiner relies on Fig. 2 of Fisher. However, Fig. 2 of Fisher does not show any shipper loads against which a particular carrier capacity is currently bid. Rather, Fig. 2 of Fisher merely shows a conventional auction in which the high bidders are presented at screen 280. See, for example, column 7, lines 32-49 of Fisher. Nothing in Fisher or combination of Fisher and CLE teaches or suggests the recited feature. Therefore, Fisher cannot be said to cure the deficiencies of CLE.

For at least the foregoing reasons, independent claims 40 and 45, and their dependent claims are believed to be allowable over the cited art. Withdrawal of the rejections is respectfully requested.

**V. CONCLUSION**

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
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